

FILED
IN CLERKS OFFICE
U.S. DISTRICT COURT ED. N.Y.

★ OCT 12 2006 ★

P.M. _____
TIME A.M. _____

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ES-TEE REALTY CO., LLC.,

Plaintiff,

-against-

SINA SOUMEKHIAN and STEVEN MAZER,

Defendants.
-----X

JUDGMENT
04-CV-3482 (CBA)

A Memorandum and Order of Honorable Carol Bagley Amon, United States District Judge, having been filed on September 29, 2006, finding that the plaintiff Es-Tee Realty has failed to establish a critical element of its prima facie case: namely, that Weinstock ever mad a loan to Cparil that would be subject to defendants' personal guarantee contained in the Agreement, the Guaranty, which extends only to loans made pursuant to the Agreement, is without effect because the Court does not credit Weinstock's testimony that the defendants or Rosenhouse ever knew of the Guaranty or signed it; granting judgment in the defendants' favor; and dismissing the third-party complaint, since the defendants' claims against the third-party defendants Weinstock and Rosenhouse are contingent upon the Court finding the defendants liable for Es-Tee's claims; it is

JUDGMENT
04-CV- 3482 (CBA)

ORDERED and ADJUDGED that the Court finds that the plaintiff Es-Tee Realty has failed to establish a critical element of its prima facie case: namely, that Weinstock ever made a loan to Capri that would be subject to defendants' personal guarantee contained in the Agreement; that the Guaranty, which extends only to loans made pursuant to the Agreement, is without effect because the Court does not credit Weinstock's testimony that that the defendants or Rosenhouse ever knew of the Guaranty or signed; that judgment is hereby granted in the defendants' favor; and that since the defendants' claims against the third-party defendants Weinstock and Rosenhouse are contingent upon the Court finding the defendants liable for Es-Tee's claims, the Court dismisses the third-party complaint.

Dated: Brooklyn, New York
October 04, 2006

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/s/
ROBERT C. HEINEMANN
Clerk of Court

By Terry Vaughn
Chief Deputy